

DETAILED ACTION

Response to Amendment

The reply filed on 7/7/10 is not fully responsive to the prior Office Action because: In applicants' election dated 12/11/2009 applicants elected group I of which the originally presented claims of group I corresponded to the species of figure 2. In applicants' amendment and remarks filed 4/19/10 applicants state that the claims have been amended to read on the species of figure 5. Amended claims 1 and 3 are directed to an invention that is independent or distinct from the invention originally elected invention. Applicants have received an action on the merits for the originally elected invention. Accordingly, claims 1 and 3 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Response to Arguments

Applicant's arguments filed 7/7/10 have been fully considered but they are not persuasive. Applicants state that the claims still recite the embodiment of Group I. Original claim 1 was directed to the embodiment of figure 2 and therefore by applicants election in 12/11/09 applicants elected to have the embodiment of claim 1 (i.e. figure 2) as originally presented examined on the merits. In applicants amendment filed 4/19/10 applicants amended the scope of claim 1 such that it no longer reads on the embodiment of figure 2 as originally presented and now the scope of claim 1 reads on the embodiment of figure 5 as admitted to by applicants. Therefore applicants have amended claim 1 away from the original scope of the original presentation of claim 1 such that claim 1 no longer reads on the original embodiment as presented in the originally filed application. As stated above "Applicants have received an action on the merits for the originally elected invention. Accordingly, claims 1 and 3 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03." Therefore because applicants have amended the claims to read on an embodiment that was not originally presented in the claims thus causing the claims to be withdrawn by original presentation there are no claims for the Examiner to examine and applicants response filed 7/7/10 is still non-responsive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HODGE whose telephone number is (571)272-2097. The examiner can normally be reached on 8:00am - 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Basia Ridley can be reached on (571) 272-1453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Hodge/
Primary Examiner, Art Unit 1795